

COPY

BEFORE THE BOARD OF MEDICAL EXAMINERS  
OF THE STATE OF NEVADA

\* \* \* \* \*

In The Matter of Charges and )  
 )  
Complaint Against )  
 )  
ERNESTO RUBIO, M.D., )  
 )  
Respondent. )

Case No. 09-11658-1

FILED

SEP 08 2009

NEVADA STATE BOARD OF  
MEDICAL EXAMINERS

COMPLAINT

The Investigative Committee of the Nevada State Board of Medical Examiners, composed of Charles N. Held, M.D., Ms. Jean Stoess, M.A., and Benjamin J. Rodriguez, M.D., by and through Edward Cousineau, General Counsel for the Nevada State Board of Medical Examiners, having a reasonable basis to believe that Ernesto Rubio, M.D., hereinafter referred to as "Respondent," has violated the provisions of NRS Chapter 630, hereby issues its formal Complaint, stating the Investigative Committee's charges and allegations, as follows:

1. Respondent is licensed in active status to practice medicine in the state of Nevada, and at all times alleged herein, was so licensed by the Nevada State Board of Medical Examiners, pursuant to the provisions of Chapter 630 of the Nevada Revised Statutes.

2. Patient A was a fifty-one-year-old female at the time of the events at issue. Her true identity is not disclosed herein to protect her privacy, but is disclosed in the Patient Designation served on Respondent along with a copy of this Complaint.

3. Patient A presented to UMC Quick Care in Las Vegas on February 27, 2003. Patient A's medical records indicate she was suffering from abdominal pain and cramping, constipation, and fever, with a pain intensity of 10/10. Patient A had a medical history of Lupus, hypertension and arthritis, and that Patient A's current medications included prednisone, methotrexate, and Plaquanil. The medical records also indicate that Patient A had not had a

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1 bowel movement, and had nausea and emesis, for two days prior to her presentment.  
2 Respondent's physical examination of Patient A noted a soft abdomen with mild suprapubic  
3 tenderness and that Patient A refused a rectal examination.

4 4. Respondent diagnosed Patient A as suffering from a urinary tract infection and  
5 discharged her with prescriptions for Keflex and Dulcolax. Patient A expired the next day,  
6 approximately twenty hours after being discharged by Respondent. Patient A's death certificate  
7 lists the cause of death as hemoperitoneum and vascular rupture.

8 5. Section 630.301(4) of the Nevada Revised Statutes provides that malpractice,  
9 defined as the failure to use the reasonable knowledge, skill and expertise ordinarily used in  
10 similar circumstances, is grounds for discipline.

11 6. Respondent committed malpractice in the course of providing care and treatment to  
12 Patient A when he failed to recognize the need to transfer Patient A to another facility to perform  
13 further medical, laboratory and imaging studies to more accurately confirm Patient A's medical  
14 circumstance, and is subject to discipline by the Nevada State Board of Medical Examiners as  
15 provided in NRS 630.352.

16 **WHEREFORE**, the Investigative Committee prays:

17 1. That the Nevada State Board of Medical Examiners fix a time and place for a formal  
18 hearing;

19 2. That the Nevada State Board of Medical Examiners give Respondent notice of the  
20 charges herein against him, the time and place set for the hearing, and the possible sanctions against  
21 him;

22 3. That the Board determine what sanctions it deems appropriate to impose for the  
23 violation committed by Respondent; and

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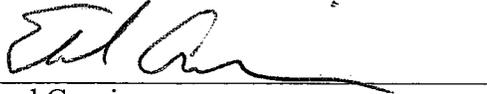
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4. That the Board make, issue and serve on Respondent its findings of facts, conclusions of law and order, in writing, that includes the sanctions imposed.

DATED this 8<sup>th</sup> day of September, 2009.

By:



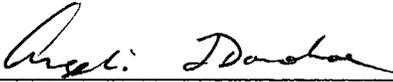
Edward Cousineau  
Attorney for the Investigative Committee of the  
Nevada State Board of Medical Examiners

**CERTIFICATE OF MAILING**

I hereby certify that I am employed by Nevada State Board of Medical Examiners and that on the 8<sup>th</sup> day of September 2009, I served a file copy of the COMPLAINT, PATIENT DESIGNATION & FINGERPRINTING Information, by mailing via USPS certified return receipt mail to the following:

Ernesto Rubio, M.D.  
UMC Quick Care  
61 N. Nellis Blvd.  
Las Vegas, NV 89110

Dated this 8<sup>th</sup> day of September 2009.



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Angie Donohoe  
Legal Assistant